

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

EDWARD STINSON, et al.,

:
:
:
:
:
:

**Crim. No. 17-72-3
Crim. No. 17-71-1**

ORDER

On February 8, 2017, the grand jury charged Defendant Edward Stinson in two separate indictments with conspiring to distribute crack cocaine. (Doc. No. 1, Crim. No. 17-72; Doc. No. 1, Crim. No. 17-71.) Defendant filed Motions to Suppress recordings of his prison telephone calls from April 21, 2011 through January 26, 2016. (Doc. No. 309, Crim. No. 17-72; Doc. No. 361, Crim. No. 17-71.) The Government responded. (Doc. No. 342, Crim. No. 17-72). I conducted an evidentiary hearing on September 14, 2018. I will deny Defendant's Motions.

Relying upon *Carpenter v. United States*, Defendant argues that because he had a reasonable expectation of privacy in his prison telephone calls, the Government had to obtain a warrant before compelling the state to provide recordings of his prison calls. 138 S. Ct. 2206 (2018). The Government responds that *Carpenter* applies only to the use of cell-site location information ("CSLI") to track physical movements, not prison telephone call recordings. I agree with the Government.

In *Carpenter*, the Government used compulsory process to compel a wireless carrier to turn over a subscriber's CSLI. *Id.* at 2221. The Government used CLSI to track a suspect's physical movements. *Id.* The Supreme Court held that "an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through CSLI." *Id.* at 2217. Because "the acquisition of [an individual's] CSLI [is] a search, . . . the Government must

generally obtain a warrant supported by probable cause before acquiring such records.” Id. at 2221.

On September 14, 2018, Philadelphia Prison System custodian of records Brad Cakrane testified credibly that each prisoner is notified in three ways that his prison telephone calls are recorded and monitored: (1) a handbook given to each prisoner upon arrival at the prison; (2) signage in the area around the telephones; and (3) an audio message played at the beginning of each telephone call informing both the prisoner and the other party on the line that the call is being recorded and monitored. (See Tr. 3–7, Doc. No. 387, Crim. No. 17-72.) He reiterated that testimony during the January 9, 2019 evidentiary hearing I conducted relating to the Government’s *Starks* Motion. Because Defendant knew that his telephone calls would be recorded he had no expectation of privacy. See Lanza v. New York, 370 U.S. 139, 143 (1962); United States v. Shavers, 693 F.3d 363, 389–90 (3d Cir. 2012), *vacated on other grounds*, 133 S. Ct. 2877 (2013) (no expectation of privacy where handbook and signage informed prisoner his calls are recorded); United States v. Sababu, 891 F.2d 1308, 1329 (7th Cir. 1989). The Government thus properly obtained Defendant’s prison telephone records without first serving a warrant. See Carpenter, 138 S. Ct. at 2221. Accordingly, I will deny Defendant’s Motions.

AND NOW, this 10th day of January, 2019, it is hereby **ORDERED** that Defendant’s Motions (Doc. No. 309, Crim. No. 17-72; Doc. No. 361, Crim. No. 17-71) are **DENIED**.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.